

REMARKS

Reconsideration of this application is respectfully requested. Claims 22-41 as amended are presented for consideration. Claims 1-21 have been canceled.

The newly presented claims are believed to be supported by the description of the housing presented in the Summary of the Invention, and by the depictions in the drawings, and accordingly, no new matter is believed to be entered hereby. As presently defined, the claims focus on the housing that is separable from an evacuating apparatus, and that by the variations in its configuration, is able to adapt to a broad spectrum of patient shapes and needs with minimal adjustment to the overall apparatus. A further advantage of the housing is the ability to remove it from the remainder of the apparatus for sterilization after use, with minimal effort.

Claims 1-3, 6-10, 12, 13, 16, 17 and 19-21 have been rejected under 35 U.S.C. §103(a) as unpatentable over Rosso in view of Guevrekian. As this rejection may pertain to the claims as amended, it is traversed.

Rosso does not disclose the housing that is depicted and now concisely defined in the newly presented claims. The apparatus of Rosso is an integral unit disposed to suspend above a prone patient on an operating table, and therefore offers none of the adjustability or modular operation that is defined in the present invention. The Rosso apparatus is neither designed nor intended for applications where the patient is upright, as in a dental chair, and there is not provision in the patented apparatus for such adjustments. Most importantly, the portion of the Rosso device that serves as the inlet for the unwanted gas, is a flexible tube that requires assembly and support by a rigid member fixed in position and mounted on one end of the operating table. The Rosso tube is not designed for adjustable location adjacent the nose and mouth of a patient as is the case in the present device. Accordingly, the rejection as it may be based on Rosso is inapt and should be withdrawn.

Guevrekian fails to cure the deficiencies of Rosso, as the patented disclosure merely presents a bifurcated length of tubing fixedly attached to a vacuum source, with two open ends, like dual vacuum hoses, that drape over the patient's shoulders and draw gases in at those openings. There is no disclosure of a modular tube with openings along

its length, that is detachably attachable to the vacuum source and that can assume a variety of shapes, including means for securement about the neck of the patient, like a collar. A combination of the disclosures of these references is strained, as the secondary reference is so disparate from the primary reference, and only could be made by resort to applicant's disclosure for guidance. Particularly as presently claimed, the housing of the invention patentably distinguishes the teachings of these references, and withdrawal of the corresponding ground of rejection is believed to be in order.

Claims 14 and 21 have been rejected under 35 U.S.C. §103(a) as unpatentable over a combination of Rosso and Guevrekian, taken with Brekke. As this rejection might be applied to the claims as amended, it is traversed.

Brekke fails to cure the deficiencies of Rosso and Guevrekian, and applicant's comments regarding the former references, set forth above, are incorporated herein. The combination of the housing of the invention with a nasally disposed device for evacuation of unwanted gases, finds no suggestion in any of the references as the housing and its versatility and modular construction are absent from the cited patents. Accordingly, this rejection is likewise without merit, and withdrawal thereof is requested.

In view of the above and foregoing, reconsideration and withdrawal of the outstanding grounds of rejection, as they might be deemed applicable against the claims as amended, are believed to be in order and are courteously solicited.

Respectfully submitted,

/David A. Jackson/
DAVID A. JACKSON
Attorney for Applicant(s)
Registration No. 26,742

KLAUBER & JACKSON L.L.C.
Continental Plaza
411 Hackensack Avenue, 4th Floor
Hackensack, NJ 07601
(201) 487-5800
February 22, 2008